



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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Wisconsin.gov

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Notice of Adoption and Filing of Examination Report

Take notice that the proposed report of the market conduct examination of the

Gundersen Lutheran Health Plan
1836 South Avenue
La Crosse WI 54601

dated February 14 - 28, 2005, and served upon the company on February 8, 2006, has been adopted as the final report, and has been placed on file as an official public record of this Office.

Dated at Madison, Wisconsin, this 23rd day of May, 2006.

Jorge Gomez
Commissioner of Insurance

**STATE OF WISCONSIN
OFFICE OF THE COMMISSIONER OF INSURANCE**

MARKET CONDUCT EXAMINATION

OF

**GUNDERSEN LUTHERAN HEALTH PLAN
LA CROSSE, WISCONSIN**

FEBRUARY 14 - 28, 2005

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March 24, 2005

Honorable Jorge Gomez
Commissioner of Insurance
Madison, WI 53702

Commissioner:

Pursuant to your instructions and authorization, a targeted market conduct examination was conducted February 14 to February 28, 2005 of:

GUNDERSEN LUTHERAN HEALTH PLAN
La Crosse, Wisconsin

and the following report of the examination is respectfully submitted.

I. INTRODUCTION

Gundersen Lutheran Health Plan, Inc. (GLHP) can be described as a not for profit network model health maintenance organization (HMO) insurer. GLHP was incorporated on March 13, 1995 as a nonstock service insurance corporation under chapter 613 of the Wisconsin Statutes and commenced business September 1, 1995. The HMO is controlled by Gundersen Clinic, Ltd and Gundersen Lutheran Medical Center, Inc. The HMO has a service area of 11 counties in Wisconsin. At the end of 2003, the company had 30,314 enrollees.

The company writes HMO coverage and has a point of service product. GLHP has underwritten the POS product since January 1, 2002. Prior to January 1, 2002 this product was underwritten by Allianz Life Insurance Company of North America and GLHP under a joint group contract. The company's individual in area conversion product is underwritten by GLHP.

GLHP entered into an agreement with the Centers for Medicare and Medicaid Services (CMS) in 1999 to market a Medicare Advantage plan.

In 2004 the company was not ranked in the top 20 largest writers of group health insurance in Wisconsin, nor was the company ranked in the top 20 largest writers of group health insurance in Wisconsin in 2003. As of January 1, 2004, the company had 29,055 HMO enrollees and 1,358 POS enrollees.

The following tables summarize the premium written in Wisconsin for 2003 and 2004.

Wisconsin Direct Premium Summary

2004		
Line of Business	Premium Earned	% of WI Total
Group Health	\$54,191,275	100%
Medicare	\$63,335,044	100%
Total	\$117,526,319	100%

2003		
Line of Business	Premium Earned	% of WI Total
Group Health	\$77,089,873	100%
Medicare	\$48,418,516	100%
Total	\$125,508,389	100%

Complaints

The Office of the Commissioner of Insurance (OCI) received 19 complaints against the company between January 1, 2003 through December 31, 2004. A complaint is defined as 'a written communication received by the Commissioner's Office that indicates dissatisfaction with an insurance company or agent.' The company was not ranked in either the 2003 or the 2004 group accident and health complaint summary of insurers with an above-average number of complaints to premium volume.

The following table categorizes the complaints received against the company by type of policy and complaint reason. The majority of complaints received in 2003 were regarding claim delays. The majority of complaints received in 2004 were regarding claims handling. There may be more than one type of coverage and/or reason for each complaint.

2003

Coverage Type	Total	Underwriting	Marketing & Sales	Claims	Policyholder Service	Other
HMO	10	0	1	6	3	0

2004

Coverage Type	Total	Underwriting	Marketing & Sales	Claims	Policyholder Service	Other
HMO	9	0	0	7	2	0

Grievances

The company submitted annual grievance experience reports to OCI for 2003 and 2004 as required by s. Ins 18.06, Wis. Adm. Code. A grievance is defined as 'any dissatisfaction with the provision of services or claims practices of an insurer offering a health benefit plan or administration of a health benefit plan by the insurer that is expressed in writing to the insurer by, or on behalf of, an insured.'

The grievance summary report for 2003 indicated the company received 59 grievances, of which 26 or 44% were reversed. The grievance report for 2004 indicated the company received 53 grievances, of which 28 or 53% were reversed. The majority of grievances in both 2003 and 2004 were "not-covered benefit".

The following table summarizes the grievances for the company for the last two years:

	2003	2004
Category	Number	Number
Access to Care	0	0
Continuity of Care	0	0
Drug & Drug Formulary	1	3
Emergency Services	0	0
Experimental Treatment	0	0
Prior Authorization	9	11
Not Covered Benefit	32	28
Not Medically Necessary	2	0
Other	2	1
Plan Administration	4	3
Plan Providers	0	0
Request for Referral	9	7
Total	59	53
Resolution Categories		
Plan Administration	4	3
Benefit Denial	55	50
Quality of Care	0	0
Total	59	53

IRO

Independent review organizations (IROs) certified to do reviews in Wisconsin are required to submit to the OCI annual reports for the prior calendar year's experience. Issues eligible for independent review include adverse and experimental treatment determinations.

The IRO reports indicate that for 2003 the company had two IRO requests, one of which had a reversal of the decision and one was upheld. The IRO reports indicate that for 2004 the company had two IRO requests, one of which had a reversal of the decision and one was upheld.

The following tables summarize the IRO review requests for the company for the last two years:

2003*								
Independent Review Organizations						Number of Decisions		
Review Requests Received	I PRO	Maximus-CHDR	Medical Review Inst of America	Permedion	Prest	Upheld	Reversed	Average Number of Days to Resolve
2	0	1	0	1	0	1	1	11

2004

Independent Review Organizations						Number of Decisions		
Review Requests Received	IPRO	Maximus-CHDR	Medical Review Inst of America	Permedion	Prest	Upheld	Reversed	Average Number of Days to Resolve
2	0	1	0	1	0	1	1	25

*Total review requests received does not equal total number of decisions because Independent Review Organization declined one or more cases.

II. PURPOSE AND SCOPE

A targeted examination was conducted to determine whether the company's practices and procedures comply with the Wisconsin insurance statutes and rules. The examination focused on the period from January 1, 2003 through December 31, 2004. In addition, the examination included a review of any subsequent events deemed important by the examiner-in-charge during the examination.

The examination was limited to a review of group health claims; company operations/management; electronic commerce; grievance and independent review; marketing, sales and advertising; policy forms and rates; policyholder service and complaints; privacy; producer licensing; managed care; small employer marketing, underwriting and rates; group health underwriting and rating; and terminations, nonrenewals and cancellations. The examination also included a review of compliance with the prior managed care desk audit recommendations.

The report is prepared on an exception basis and comments on those areas of the company's operations where adverse findings were noted.

III. PRIOR EXAMINATION RECOMMENDATIONS

The previous managed care desk audit of the company, as adopted December 1999, contained three recommendations. Following are the recommendations and the examiners' findings regarding the company's compliance with each recommendation.

Standing Referral

1. It is recommended that Gundersen Lutheran submit to OCI for approval language in its policies and certificates regarding standing referrals, as required by s. 609.22 (4), Wis. Stat.

Action: Compliance

2. It is recommended that Gundersen Lutheran develop a procedure for providing information on its standing referral procedure to an enrollee or prospective enrollee, as required by s. 609.22 (4), Wis. Stat.

Action: Compliance

Access Plan for Certain Enrollees

3. It is recommended that Gundersen Lutheran develop an access plan that includes specific procedures designed to ensure the needs, with respect to covered benefits, of its enrollees who are members of underserved populations are met, as required by s. 609.22 (8), Wis. Stat.

Action: Compliance

IV. CURRENT EXAMINATION FINDINGS

Claims

The examiners reviewed the company's response to OCI's claims interrogatory, claims procedure manuals, internal audit reports, explanation of benefit (EOB) forms, remittance advice (RA) forms, ANSI codes, and the company's claim payment methodology.

The examiners reviewed a random sample of 75 paid and 75 denied medical claims processed during the period of review. The examiners verified that the information on the EOBs and RAs was appropriate regarding claim payment or denial of payment, that interest was paid correctly on delayed claims, and that claims were paid timely. The examiners found that the company's RA form contained all of the required information but did not conform to the correct order of the format specified in Appendix A of s. Ins 3.651 (3) (a), Wis. Adm. Code.

1. **Recommendation:** It is recommended that the company revise its RA form to ensure that it conforms to the correct order of the format in Appendix A as required by s. Ins 3.651 (3) (a), Wis. Adm. Code.

The examiners found that the company EOB did not print the last name followed by the first name and middle initial of each patient insured under the policy for whom claim information was being reported on the form. Section Ins 3.651 (4) (a) 4, Wis. Adm. Code, requires the last name followed by the first name and middle initial of each patient insured under the policy for whom claim information is being reported be included on the explanation of benefits form.

2. **Recommendation:** It is recommended that the company revise its EOB to include each patient's name printed with the last name first followed by the first name and middle initial in order to comply with s. Ins 3.651 (4) (a) 4, Wis. Adm. Code.

The examiners reviewed a random sample of 15 paid and 15 denied chiropractic claims. The review verified that the company's EOBs and RAs included the claim payment or denial of payment information required by s. Ins 3.651, Wis. Adm. Code, that claims were paid timely, that interest was paid on delayed claims, and that an independent review by a licensed

chiropractor was performed for the denied chiropractic claims. The examiners found that Gundersen Lutheran processed its own chiropractic claims, and contracted with ChiroCare to perform an independent chiropractic review for denied chiropractic claims. No exceptions were noted.

The examiners reviewed a random sample of 10 paid and 10 denied mental health claims. The review verified that the information on the EOBs and RAs included the claim payment or denial of payment information required by s. Ins 3.651, Wis. Adm. Code, that claims were paid timely, that interest was paid on delayed claims, and that the company's claim process complied with Wisconsin's mental health mandate. No exceptions were noted.

The examiners reviewed 25 claims paid to out-of-network providers to examine the company's usual, customary and reasonable (UCR) claim payment process. The claims were reviewed to verify that the company's claim payment methodology met the data requirements under s. Ins 3.60, Wis. Adm. Code. The examiners also reviewed the company's internal procedure for determining UCR, which included utilizing actual provider billings to develop a statistical basis for determining a reasonable charge. No exceptions were noted.

Electronic-Commerce

The examiners reviewed the company's response to the OCI electronic commerce interrogatory and the company's website.

The examiners found that the company's website provided information about the company, provider directories, coverage information for insureds, health topics and information for insureds, links to the Gundersen Lutheran Health medical website, and copies of the member newsletter. The website did not include access to personal medical information and did not allow individuals to apply for insurance coverage online during the period of review.

The examiners found that the company's procedures allowed for Internet advertising. The company's insurance agent agreement, which all listed agents must sign, provided that agents should not advertise or publicize the plan except as approved in writing by the plan. The examiners found that the company did not have a formal policy regarding auditing agent Internet advertising. The company verified that it had not conducted an audit of advertising on its agent websites during the period of review. Section 628.34, Wis. Stat., provides that making any communication relating to insurance that contains false or misleading information including information misleading because of its incompleteness is an unfair marketing practice, and that any such act by an insurance agent is also an act by the insurance company. Section Ins 3.27 (27), Wis. Adm. Code, provides that the content, form and method of dissemination of all advertisements, regardless of by whom designed, created, written, printed or used, shall be the responsibility of the insurer whose policy is advertised.

3. **Recommendation:** It is recommended that the company develop, document, and implement a process and procedure providing oversight of agent Internet advertisements referencing the company in order to document compliance with s. 628.34, Wis. Stat. and s. Ins 3.27 (27), Wis. Adm. Code.

The examiners reviewed the electronic provider directory on the company's website. The examiners requested the names of the network providers whose contracts with the company had ended between August 1, 2004 and January 31, 2005, which totaled three

providers, in order to verify that the company updated its online provider directory on a regular and timely basis. The examiners found that the company had removed from its online provider directory the names of the terminated providers.

Grievances and Independent Review (IRO)

The examiners reviewed the company's response to the OCI grievance and independent review interrogatory, the company's grievance and independent review (IRO) policies, the grievance committee meeting minutes, EOB and RA forms, and the 2003 and 2004 grievance summary reports. The examiners also conducted interviews with the company's member advocate regarding the company's grievance and IRO procedures.

Independent Review

The examiners reviewed the company's independent review policy, eight independent review (IRO) files, and conducted an interview with the company's IRO member advocate.

The examiners reviewed the company's independent review policy and found that it stated, "The Health Plan agrees with the member that the matter should proceed directly to independent review, and, ... the IRO determines the health condition of the member is such that requiring the member to use the internal grievance procedure before proceeding to IR would jeopardize the life or health..." The company's independent review policy was not compliant with s. 632.835 (2) (d), Wis. Stat., which states that the insured may bypass the grievance process if either the health plan and insured agrees or the IRO determines the review should be expedited.

4. **Recommendation:** It is recommended that the company modify its written independent review procedures to allow members to bypass its internal grievance procedure as required by s. 632.835 (2) (d), Wis. Stat.

The examiners reviewed eight independent review (IRO) files. No exceptions were noted.

Grievances

The examiners review of the company's annual grievance experience reports submitted for 2003 and 2004 found that the reports identified over 50% of grievances by the "not covered benefit" reason code. The examiners found that the not-covered benefit reason code

identified a variety of grievances, including but not limited to out-of-network providers, gastric bypass surgery, maximum benefit amount reached, and orthodontic treatment.

The examiners reviewed a random sample of 25 grievances from 2004 and 25 grievances from 2003. The examiners found seven grievances in which the company did not send the resolution letter within 30 days of receipt of the grievance and did not send extension letters to the insured. Section Ins 18.03 (6), Wis. Adm. Code requires that written notification be sent to insured stating the reason the grievance cannot be resolved within 30 days of receipt of the grievance.

5. **Recommendation:** It is recommended that the company develop, document, and implement a procedure to ensure that it sends extension letters to grievants when it is unable to resolve a grievance within 30 calendar days of receipt as required by s. Ins 18.03 (6), Wis. Adm. Code.

The examiners reviewed the company's expedited grievance procedure. The procedure stated that the health plan's member advocate would respond with written confirmation acknowledging the member's/authorized representative's expedited grievance request within 2 business days of receipt of the request. The company acknowledged that its expedited grievance procedure did not comply with s. Ins 18.05, Wis. Adm. Code, which states that an expedited grievance shall be resolved no more than 72 hours after receipt of the grievance.

6. **Recommendation:** It is recommended that the company develop, document and implement a process and procedure to acknowledge an expedited grievance within 72 hours of receipt of the grievance in order to comply with s. Ins 18.05, Wis. Adm. Code.

The examiners found that the company's EOB and RA forms did include the required information regarding the insured's or enrollee's right to file a grievance.

Managed Care

The examiners reviewed the company's response to OCI's managed care interrogatory; procedure manuals; credentialing process, continuity of care; access to providers; network contracts; compliance plan; quality improvement process, including minutes of the pharmacy & therapeutic, utilization management, credentialing, and quality improvement subcommittees. The examiners also verified the company's compliance with the prior managed care desk audit recommendations. The company reported that it did not plan to seek accreditation from the National Committee for Quality Assurance (NCQA).

The examiners verified compliance with the recommendations from the previous managed care desk audit by verifying that the company had submitted to OCI and had received approval for its policy and certificate language regarding standing referrals. The examiners reviewed the company's procedure for providing information to enrollees regarding standing referrals. The examiners reviewed the company's access plan to determine compliance with s. 609.22 (8), Wis. Stat., which requires a defined network plan to develop an access plan to meet the needs, with respect to covered benefits, of it enrollees who are members of underserved populations. No exceptions were noted.

The examiners found that the company conducted its own credentialing and recredentialing processes, case management and utilization management in-house. The processes were overseen by the credentialing and utilization management committees. The examiners reviewed a random sample of 50 provider files in order to document the company's credentialing procedures. The examiners found that all credentialing files were complete with all necessary documentation and information included.

The examiners found that the company's compliance plan included corporate compliance training for employees, internal monitoring and auditing for compliance, compliance investigations and an annual compliance survey for all employees. The 2004 compliance program managed care audit report audited for compliance in provider choice, access

standards, continuity of care, quality assurance, data systems and confidentiality, formularies and experimental treatments, and internal grievance process. The annual compliance report was furnished to the board of directors, compliance oversight committee and the compliance operations committee. The examiners found that the company had an active compliance plan including periodic audits as required by s. Ins 9.42, Wis. Adm. Code.

No exceptions were noted regarding the managed care review.

Marketing, Sales and Advertising

The examiners reviewed the company's response to the OCI marketing, sales and advertising interrogatory, reports, and procedures.

The examiners reviewed all eight advertisements in the company's advertising file used during the period of review. The examiners found that the advertisements did not include a form number. Section Ins 3.27 (26), Wis. Adm. Code, requires that an advertisement which is an invitation to apply or an invitation to inquire and is mass-produced be identified by a form number.

7. **Recommendation:** It is recommended that the company develop, document and implement a procedure to ensure all mass produced advertisements are identified with a form number in order to comply with s. Ins 3.27 (26), Wis. Adm. Code.

The examiners found that the company's advertisements did not include a notation indicating manner, extent of distribution and the form number of the policy advertised attached to each advertisement. Section Ins 3.27 (28), Wis. Adm. Code, requires that a notation be attached to each such advertisement in the file indicating the manner and extent of distribution and the form number of any policy, amendment, rider, or endorsement form advertised.

8. **Recommendation:** It is recommended that the company develop, document and implement a procedure for ensuring that a notation be attached to each advertisement in the file indicating the manner and extent of distribution and the form number of any policy amendment, rider, or endorsement form advertised as required by s. Ins 3.27 (28), Wis. Adm. Code.

The examiners found that the company did not retain a copy of the Summer 2003 newsletter in the advertising file. Section Ins 3.27 (28), Wis. Adm. Code, requires a company to maintain all advertisements at its home office and in the advertising file.

9. **Recommendation:** It is recommended that the company develop, document and implement a procedure for maintaining its written advertising file in order to comply with s. Ins 3.27 (28), Wis. Adm. Code.

Policy Forms and Rates

The examiners reviewed the company's response to the OCI policy forms and rates interrogatory, the company's form and rate tracking database, Wisconsin mandated benefit language, the company's conversion policy, and forms approved during the period of review. The company contracted with the Celtic Life Insurance Company to underwrite its individual out-of-area conversion policy.

Prior to June 2004 the company filed its forms and rates by sending the hard copy drafts to OCI. Beginning in June 2004 the company began using SERFF as well as paper submissions to file its forms and rates with the OCI.

The examiners reviewed 14 forms that the company used during the period of review. The examiners found that the forms were compliant with mandated benefit language required by Wisconsin insurance statutes and that the company had a process for and had updated its policy forms to comply with any changes in Wisconsin insurance laws.

No exceptions were noted regarding policy forms.

Policyholder Service and Complaints

The examiners reviewed the company's response to the OCI policyholder service and complaints interrogatory, the OCI complaints, procedures, and the company complaint log.

Prior to the examination, the examiners completed a complaint analysis of the 19 complaint files involving the company that were received by OCI during the 2003 and 2004 calendar years. The examiners found that six OCI complaints received in 2003 and eight OCI complaints received in 2004 were regarding claims and claims handling.

The examiners reviewed the company's internal complaint policy, which provided that all OCI complaints be treated as grievances. The examiners conducted an onsite review of 50 company complaint files and found that the company had not followed its internal procedure and had not sent acknowledgment letters for three OCI complaint files that it had treated as grievances.

10. **Recommendation:** It is recommended that the company develop, document and implement a process to ensure that it sends acknowledgment letters on OCI complaints that it handles as grievances in order to comply with its own internal procedure and with s. Ins 18.03 (4), Wis. Adm. Code.

The examiners found that the company handled one OCI complaint file as a grievance but did not include it in the 2003 calendar year grievance experience report that the company filed with the OCI. Section Ins 18.06, Wis. Adm. Code requires that a company submit a grievance experience report to OCI by March 1 each year, and that the report provide information on all grievances received during the previous calendar year.

Privacy and Confidentiality

Section 610.70, Wis. Stat., regarding medical records privacy, became effective June 1, 1999, and created restrictions on insurers regarding their collection and release of personal medical information that correspond with the federal Health Insurance Portability and Accountability Act (HIPAA) requirements. Chapter Ins 25, Wis. Adm. Code, became effective July 1, 2001, to address the provisions of Gramm Leach Bliley Act (GLBA), and is based on the National Association of Insurance Commissioners (NAIC) privacy of consumer financial and health information model regulation.

The examiners reviewed the company's response to the OCI's Privacy of Consumer Financial and Health Information interrogatory, procedures, notices and authorizations, training manuals and processes, and conducted an interview with the company's privacy officer.

The examiners found that the company had initiated its privacy program prior to the enactment of GLBA and the HIPAA. The company originally provided its privacy notice to its enrollees in May 2001. The company's privacy notice is included in the annual member newsletter, a downloadable copy is posted on the company's website and copies are available in the health plan's reception areas. The company's privacy program included an initial process for the orientation and training of employees to its privacy and confidentiality process as well as periodic retraining for employees. The company's privacy policy provided that all employees sign a confidentiality agreement.

The examiners found that the company required its agents as business associates of the health plan to sign a business associate agreement, which specifically limits the use and disclosure of protected health information (PHI) and prohibits unauthorized uses and disclosures, defined the agency's function, prohibited unauthorized use or disclosure of PHI, required appropriate safeguards to protect PHI, required the reporting of privacy violations, required the agent to allow members their rights under HIPAA laws, and described protections of PHI upon termination of the agreement.

The examiners found that the company's privacy officer conducted periodic audits to ensure that employees complied with company procedures and identified and protected confidential information. The examiners found that the company utilized a disclosure grid located on company Intranet, which guided employees as to how to identify different types of information and the proper use, handling and disposal of that information.

No exceptions were noted regarding privacy.

Producer Licensing

The examiners reviewed the company's response to the OCI's producer licensing interrogatory, its agent databases, and agency and agent agreements, and training manuals.

The examiners requested from the company a listing of all Wisconsin agents that represented the company as of the end date of the period of review. The examiners compared the agent licensing data provided by the company to the agent database maintained by OCI. The examiners found that the company incorrectly reported the license numbers for two agents to OCI. The examiners verified that the company's listings were correct and that company clerical errors caused the incorrect license numbers in the company's database.

The examiners also reviewed a random sample of 45 active agent files. The review included verification that information was reported correctly to OCI and that the company followed its internal procedures regarding its agents and agencies. The examiners found that the company contracted directly with each insurance agency and not with any agents individually, so the agency files did not include agent agreements. The examiners found that four of the company's 45 active agent files did not contain an appointment validation for the agents. The company's internal procedure required that each agent file contain any correspondence from OCI. The examiners also found that six of the files contained copies of agent licenses that had expired prior to the appointment date.

The company contracted with Insurance Licensing Services of America (ILSA) as its Sircon vendor for licensing and listing agents. The examiners found that the company did not have its own policy and procedure in place during the period of review to track the termination process for its agents. The company also did not have a process or procedure to audit ILSA to verify compliance with Wisconsin insurance law regarding agent listing procedures. Section Ins 6.57 (2), Wis. Adm. Code, requires insurers to follow specific procedures during the termination of insurance agents.

11. **Recommendation:** It is recommended that the company develop, document, and implement a procedure to track the termination of appointments of its agents in order to document compliance with s. Ins 6.57 (2), Wis. Adm. Code.

The examiners reviewed the company's agency agreements. The examiners found that the company's standard template agency agreement did not require the agencies to bring complaints about agents to the company's attention. The company stated that during the period of review it did not have in place a specific policy for handling agent complaints. Section Ins 6.57 (2) (b), Wis. Adm. Code requires an insurer to notify the Office of the Commissioner of Insurance if it has knowledge of complaints received or other problems involving an intermediary.

12. **Recommendation:** It is recommended that the company develop, document and implement a procedure for handling and tracking agent complaints in order to document compliance with s. Ins 6.57 (2) (b), Wis. Adm. Code.

The examiners found that the company did not conduct separate background checks on agents seeking licensure. The examiners found that the company's contract with ILSA did not address performing background checks on new agents. The company stated that it did not conduct any audits of ILSA to verify whether background checks were completed. Section Ins 6.59 (5), Wis. Adm. Code lists criteria that may be used in assessing trustworthiness and competence of agents.

13. **Recommendation:** It is recommended that the company update its vendor contracts to require that background checks be conducted on new agents pursuant to s. Ins 6.59 (5), Wis. Adm. Code.
14. **Recommendation:** It is recommended that the company develop, document and implement an audit process for monitoring whether its vendors perform background checks of new agents to assess trustworthiness and competence in order to document compliance with s. Ins 6.59 (5), Wis. Adm. Code.

The examiners reviewed all 17 files of the producers terminated during the period of review by the company. The examiners found that none of the terminated agent files contained a copy of a termination notice to the agent. The company stated that it had never sent

termination letters to its agents. The examiners found that the company contracted directly with agencies but had not contracted with individual agents. The company stated that it was an agency's responsibility to have communicated with agents and to have provided agents with notice of termination. The examiners did not find that agency agreements addressed the issue of the responsibility of notice of termination. Section Ins 6.57 (2), Wis. Adm. Code, states that the insurer shall provide the agent written notice that the agent is no longer to be listed as a representative and requires the termination notice to include a formal demand for the return of all indicia of agency.

15. **Recommendation:** It is recommended that the company develop, document, and implement a procedure for auditing its contracted agencies to ensure termination letters are sent to agents who are no longer listed as a representative, and to ensure that all termination letters include a formal demand for the return of all indicia of the company, in order to comply with s. Ins 6.57 (2), Wis. Adm. Code.

The examiners reviewed all of the company's 17 large group not issued files. The examiners found that one of the company's files indicated that the agent of record was not indicated as listed/appointed in the company or the OCI's database. The OCI database also indicated that the agent was not licensed in the state of Wisconsin. The company verified that during the period of review it had accepted 13 groups written by the unlicensed and unlisted agent, and had paid compensation. The company indicated it had not identified the fact that the agent was not licensed or listed/appointed as the agent also served as marketing director and was responsible for verifying the licensing and listing/appointment status of agents writing company business. Section 628.11, Wis. Stat., requires an insurer to report to the commissioner all appointments, including renewals of appointments, and all terminations of appointments of insurance agents to do business in Wisconsin. Section Ins 6.57 (5), Wis. Adm. Code, provides that no insurer shall accept business directly from any intermediary or enter into an agency contract with an intermediary unless that intermediary is a licensed agent listed with that insurer.

16. **Recommendation:** It is recommended that the company institute a process to ensure the licensing and appointment status of employees and management staff writing company business and/or paid compensation, including review by company management other than the employees or management staff writing business and paid compensation, in order to document compliance with s. 628.11, Wis. Stat., and s. Ins 6.57 (5), Wis. Adm. Code.

Small Employer

The examiners reviewed the company's response to OCI's small employer interrogatory, underwriting requirements, participation requirements, rating methodology, new business rates, renewal system, 2002 and 2003 actuarial certifications, disclosure, and waiver forms.

The examiners reviewed a random sample of 50 small employer issued files. The examiners found four files that did not contain the proper agent signatures or dates. Section 628.34 (1), Wis. Stat., states that no company, agent or person may make or cause to be made any communication that contains misleading information due to incompleteness.

17. **Recommendation:** It is recommended that the company develop, document and implement a procedure to ensure agent signatures and dates are not omitted on employer group applications or disclosure statements, and that agents do not sign and date employer applications prior to completion in order to comply with s. 628.34 (1), Wis. Stat.

The examiners found that 22 files did not contained supporting documentation to verify eligible employees. Section Ins 8.65 (1), Wis. Adm. Code, requires the small employer to provide appropriate supporting documentation such as the state unemployment or worker's compensation quarterly reporting forms to verify eligible employees.

18. **Recommendation:** It is recommended that the company revise, document and implement its procedure for issuing small employer group policies to ensure that official documentation showing complete lists of eligible employees and dependents of eligible employees of small employers is included in the file in order to document compliance with s. Ins 8.65, (1), Wis. Adm. Code.

The examiners reviewed all of the 15 small employer not taken files. The examiners' review included the group name, the application date, number of employees, number of eligible employees, declination date, reason for declination and verification of the agent's listing and licensing. No exceptions were noted.

The examiners reviewed a random sample of 10 files on which quotes were given. The review was to document that quotes were handled timely so as not to delay an offer to a

substandard group, and to verify that the company maintained record of the quotes. No exceptions were noted.

Section 635.10, Wis. Stat., requires that beginning no later than August 1, 2003, every small employer insurer use the uniform employee application form developed by the OCI when a small employer applies for coverage under a group health benefit plan offered by the small employer insurer. The OCI promulgated s. Ins 8.49, Wis. Adm. Code, pursuant to s. 635.10, Wis. Stat., creating the format for uniform employee application for identified as form OCI 26-501 (C 08/2003)]. The examiners found that the company used the uniform employee application as required by s. 635.10, Wis. Stat.

The examiners reviewed the company's procedures for rating of its small employer business to ensure compliance with s. 635.05, Wis. Stat. The examiners documented that the company had a process for reviewing all small employer groups for compliance and for bringing into compliance at the time of renewal.

The examiners reviewed the 2002 and 2003 Small Employer Insurer Actuarial Certifications filed with OCI. The company reported that five groups in 2002 and two groups in 2003 were issued rates that were not in compliance with s. Ins 8.52, Wis. Adm. Code, and s. 635.05, Wis. Stat. The examiners verified that the seven groups were situations of undercharging, and that the lower rates were honored until the next renewal date. The company stated it did not have written procedures specific to rating errors of small employer groups, but that it handled rating errors in the best interest of the group. Section 635.05, Wis. Stat., outlines the restrictions on premium rates that a small employer insurer may charge a small employer. Section Ins 8.52, Wis. Adm. Code, describes how small employer insurers are to implement the restrictions so that the premium rates charged to small employers with similar case characteristics for the same or similar benefit design characteristics do not vary from the midpoint rate for those small employers by more than 35% of the midpoint rate.

19. **Recommendation:** It is recommended that the company develop, document and implement procedures to ensure small employer rating errors are identified and corrected, and that refunds are issued to groups when issued rates are above those permitted in order to comply with s. 635.05, Wis. Stat. and s. Ins 8.52, Wis. Adm. Code.
20. **Recommendation:** It is recommended that the company revise its small employer rating procedures to include a process that automatically reviews the rates calculated and includes automatic system edits to ensure compliance with the rate restrictions of s. 635.05, Wis. Stat. and s. Ins 8.52, Wis. Adm. Code.

Terminations, Cancellations & Nonrenewals

The examiners reviewed the company's response to the OCI terminations, nonrenewals & cancellations interrogatory, form letters, and procedure manuals.

The examiners reviewed a random sample of 50 terminated group files. The examiners reviewed the files to verify the policies for small groups had been terminated at the request of the group, for participation levels or for non-payment of premium. No exceptions were noted.

Underwriting and Rating

The examiners reviewed the company's response to the OCI new business and underwriting interrogatory, underwriting, rating, and procedure manuals for its large group health insurance business.

The examiners found that the company's employer group underwriting guidelines stated that the company maintained declined or withdrawn group information for a period of 12 months. Section Ins 6.80 (4), Wis. Adm. Code, requires that records be maintained for a period of 3 years.

21. **Recommendation:** It is recommended that the company develop, document and institute policies and procedures to maintain company records of operations for a period of 3 years as required by s. Ins 6.80 (4), Wis. Adm. Code.

The examiners reviewed a sample of 18 large group issued files from the period of review. The examiners found that for one group in the sample the company relied on a wage and tax statement showing 60 employees, however the company actually employed 28 employees with only three eligible employees. The group met the definition of a small employer, although the company processed the group as a large group. Section 635.02 (7), Wis. Stat., provides that a small employer is an employer that employs at least 2 but not more than 50 employees on business days during a calendar year.

22. **Recommendation:** It is recommended that the company develop, document, and implement a procedure for processing and auditing employer applications that ensures applications are handled correctly as a small or a large group in order to comply with s. 635.02 (7), Wis. Stat.

The examiners also reviewed all of the 17 large group not issued files. No exceptions were noted regarding the not issued files.

Company Operations/Management

The examiners reviewed the company's response to the OCI company operations/management interrogatory, meeting minutes for the strategic leadership team, operations leadership team, and the credentialing committees, and business associate, network, and vendor agreements.

The company contracted with the Gundersen Lutheran Administrative Services, Inc. to lease employees for administration of the health plan. The examiners found that the company contracted with ChiroCare for chiropractic benefit management and with Express Scripts for pharmacy benefit management. The company also contracted with the Gundersen Lutheran Health Plan provider network. This network included the providers as well as the clinic and hospital facilities. The company did not have provider agreements with individual providers. The examiners reviewed the template language for each provider agreement category.

No exceptions were noted regarding the company operations/management review.

V. CONCLUSION

The examiners found that the company had complied with the three recommendations from the previous managed care desk audit that was adopted in December 1999. This exam resulted in 22 new recommendations in the areas of claims; electronic-commerce; grievance and IRO; marketing, sales, and advertisement; policyholder service and complaints; producer licensing; small employer; and underwriting and rating.

The examiners found that the company had a lack of written policies and procedures in the marketing department regarding agents and advertising that resulted in several areas of noncompliance.

VI. SUMMARY OF RECOMMENDATIONS

Claims

- Page 10 1. **Recommendation:** It is recommended that the company revise its RA form to ensure that it conforms to the correct order of the format in Appendix A as required by s. Ins 3.651 (3) (a), Wis. Adm. Code.
- Page 10 2. **Recommendation:** It is recommended that the company revise its EOB to include each patient's name printed with the last name first followed by the first name and middle initial in order to comply with s. Ins 3.651 (4) (a) 4, Wis. Adm. Code.

Electronic-Commerce

- Page 12 3. **Recommendation:** It is recommended that the company develop, document, and implement a process and procedure providing oversight of agent Internet advertisements referencing the company in order to document compliance with s. 628.34, Wis. Stat. and s. Ins 3.27 (27), Wis. Adm. Code.

Grievance and IRO

- Page 14 4. **Recommendation:** It is recommended that the company modify its written independent review procedures to allow members to bypass its internal grievance procedure as required by s. 632.835 (2) (d), Wis. Stat.
- Page 15 5. **Recommendation:** It is recommended that the company develop, document, and implement a procedure to ensure that it sends extension letters to grievants when it is unable to resolve a grievance within 30 calendar days of receipt as required by s. Ins 18.03 (6), Wis. Adm. Code.
- Page 15 6. **Recommendation:** It is recommended that the company develop, document and implement a process and procedure to acknowledge an expedited grievance within 72 hours of receipt of the grievance in order to comply with s. Ins 18.05, Wis. Adm. Code.

Marketing, Sales and Advertising

- Page 18 7. **Recommendation:** It is recommended that the company develop, document and implement a procedure to ensure all mass produced advertisements are identified with a form number in order to comply with s. Ins 3.27 (26), Wis. Adm. Code.
- Page 18 8. **Recommendation:** It is recommended that the company develop, document and implement a procedure for ensuring that a notation be attached to each advertisement in the file indicating the manner and extent of distribution and the form number of any policy amendment, rider, or endorsement form advertised as required by s. Ins 3.27 (28), Wis. Adm. Code.

- Page 18 9. **Recommendation:** It is recommended that the company develop, document and implement a procedure for maintaining its written advertising file in order to comply with s. Ins 3.27 (28), Wis. Adm. Code.

Policyholder Service and Complaints

- Page 20 10. **Recommendation:** It is recommended that the company develop, document and implement a process to ensure that it sends acknowledgment letters on OCI complaints that it handles as grievances in order to comply with its own internal procedure and with s. Ins 18.03 (4), Wis. Adm. Code.

Producer Licensing

- Page 24 11. **Recommendation:** It is recommended that the company develop, document, and implement a procedure to track the termination of appointments of its agents in order to document compliance with s. Ins 6.57 (2), Wis. Adm. Code.

- Page 24 12. **Recommendation:** It is recommended that the company develop, document and implement a procedure for handling and tracking agent complaints in order to document compliance with s. Ins 6.57 (2) (b), Wis. Adm. Code.

- Page 24 13. **Recommendation:** It is recommended that the company update its vendor contracts to require that background checks be conducted on new agents pursuant to s. Ins 6.59 (5), Wis. Adm. Code.

- Page 24 14. **Recommendation:** It is recommended that the company develop, document and implement an audit process for monitoring whether its vendors perform background checks of new agents to assess trustworthiness and competence in order to document compliance with s. Ins 6.59 (5), Wis. Adm. Code.

- Page 25 15. **Recommendation:** It is recommended that the company develop, document, and implement a procedure for auditing its contracted agencies to ensure termination letters are sent to agents who are no longer listed as a representative, and to ensure that all termination letters include a formal demand for the return of all indicia of the company, in order to comply with s. Ins 6.57 (2), Wis. Adm. Code.

- Page 26 16. **Recommendation:** It is recommended that the company institute a process to ensure the licensing and appointment status of employees and management staff writing company business and/or paid compensation, including review by company management other than the employees or management staff writing business and paid compensation, in order to document compliance with s. 628.11, Wis. Stat., and s. Ins 6.57 (5), Wis. Adm. Code.

Small Employer

- Page 27 17. **Recommendation:** It is recommended that the company develop, document and implement a procedure to ensure agent signatures and dates are not omitted on employer group applications or disclosure statements, and that

agents do not sign and date employer applications prior to completion in order to comply with s. 628.34 (1), Wis. Stat.

- Page 27 18. **Recommendation:** It is recommended that the company revise, document and implement its procedure for issuing small employer group policies to ensure that official documentation showing complete lists of eligible employees and dependents of eligible employees of small employers is included in the file in order to comply with s. Ins 8.65, (1), Wis. Adm. Code.
- Page 29 19. **Recommendation:** It is recommended that the company develop, document and implement procedures to ensure small employer rating errors are identified and corrected, and that refunds are issued to groups when issued rates are above those permitted in order to comply with s. 635.05, Wis. Stat. and s. Ins 8.52, Wis. Adm. Code.
- Page 29 20. **Recommendation:** It is recommended that the company revise its small employer rating procedures to include a process that automatically reviews the rates calculated and includes automatic system edits to ensure compliance with the rate restrictions of s. 635.05, Wis. Stat. and s. Ins 8.52, Wis. Adm. Code.

Underwriting & Rating

- Page 31 21. **Recommendation:** It is recommended that the company develop, document and institute policies and procedures to maintain company records of operations for a period of 3 years as required by s. Ins 6.80 (4), Wis. Adm. Code.
- Page 31 22. **Recommendation:** It is recommended that the company develop, document, and implement a procedure for processing and auditing employer applications that ensures applications are handled correctly as a small or a large group in order to comply with s. 635.02 (7), Wis. Stat.

VII. ACKNOWLEDGEMENT

The courtesy and cooperation extended to the examiners during the course of the examination by the officers and employees of the company is acknowledged.

In addition, to the undersigned, the following representatives of the Office of the Commissioner of Insurance, state of Wisconsin, participated in the examination.

<u>Name</u>	<u>Title</u>
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Kristy Jacobson	Insurance Examiner
Linda Low	Insurance Examiner
Barbara Belling	Managed Care Specialist
Jamie Key	Advanced Insurance Examiner

Respectfully submitted,

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Examiner-in-Charge